

26 CFR 1.6033-2. Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980)

Rev. Proc. 2011-15

SECTION 1. PURPOSE AND SCOPE

This revenue procedure modifies and supersedes Rev. Proc. 83-23, 1983-1 C.B. 687, Rev. Proc. 94-17, 1994-1 C.B. 579, and Rev. Proc. 2003-21, 2003-1 C.B. 448, for taxable years beginning on or after January 1, 2010 to relieve from the requirement to file an annual return on Form 990, Return of Organization Exempt from Income Tax, organizations (other than private foundations and § 509(a)(3) supporting organizations) exempt from federal income tax because they are described in § 501(c) of the Internal Revenue Code (“exempt organizations”) whose annual gross receipts are normally not more than \$50,000. This is an increase from the previous filing threshold of annual gross receipts that are normally not more than \$25,000. References in this revenue procedure to Form 990 include Form 990-EZ. This revenue procedure does not apply to organizations exempt from income tax under § 527.

SECTION 2. BACKGROUND

.01 Section 6033(a)(1) generally requires the filing of an annual return by exempt organizations.

.02 Section 6033(a)(3)(A) provides certain mandatory exceptions to the annual filing requirement for exempt organizations.

.03 Section 6033(a)(3)(B) provides that the Secretary may relieve exempt organizations from the annual filing requirement if the Secretary determines that such filings are not necessary to the efficient administration of the internal revenue laws. Treas. Reg. § 1.6033-2(g)(6) delegates such discretionary authority to the Commissioner. See Treas. Reg. § 1.6033-2(g)(1) for a partial list of organizations that are not required to file annual returns either because they are excepted by statute or because the Commissioner has exercised this authority.

.04 The Pension Protection Act of 2006, Public Law 109-280 (120 Stat. 780) (PPA), amended § 6033(a)(3)(B) to remove the Secretary's authority to relieve organizations described in § 509(a)(3) (supporting organizations) from filing an annual information return.

.05 Under the authority of § 6033(a)(3)(B), Rev. Proc. 83-23, 1983-1 C.B. 687, relieves from the Form 990 filing requirement organizations described in § 501(c) (other than private foundations) whose annual gross receipts are normally not more than \$25,000.

.06 For purposes of this revenue procedure, the term "private foundation" includes any domestic or foreign organization described in § 501(c)(3) that is not described in § 509(a)(1) through (4).

.07 Under the authority of § 6033(a)(3)(B), Rev. Proc. 94-17, 1994-1 C.B. 579, relieves from the Form 990 filing requirement foreign organizations (other than

private foundations) whose annual gross receipts are normally not more than \$25,000 from sources within the United States and that have no significant activity in the United States.

.08 Under the authority of § 6033(a)(3)(B), Rev. Proc. 2003-21, 2003-1 C.B. 448, relieves from the Form 990 filing requirement U.S. possession organizations (other than private foundations) whose annual gross receipts are normally not more than \$25,000 from sources within the United States and that have no significant activity in the United States.

.09 Treas. Reg. § 53.4948-1(b) provides that gifts, grants, contributions or membership fees received directly or indirectly by a foreign organization from a United States person, as defined in § 7701(a)(30), are from sources within the United States. For purposes of this revenue procedure, the source of an organization's gross receipts from gifts, grants, contributions or membership fees is determined by applying Treas. Reg. § 53.4948-1(b).

.10 For purposes of applying the rules in this revenue procedure regarding possession organizations, a United States person does not include individuals who are bona fide residents of a United States possession.

.11 For purposes of this revenue procedure, the source of an organization's gross receipts other than gifts, grants, contributions, and membership fees is determined by applying the rules in §§ 861 through 865 and the regulations thereunder.

.12 For purposes of this revenue procedure, a foreign organization is any organization not described in § 170(c)(2)(A).

.13 Section 7701(a)(9) defines “United States” when used in a geographical sense as only the States and the District of Columbia.

.14 Section 7701(a)(30) defines “United States person” as a citizen or resident of the United States, a domestic partnership, a domestic corporation, any estate that is not a foreign estate (within the meaning of § 7701(a)(31)), or any trust if “(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and (ii) one or more United States persons have the authority to control all substantial decisions of the trust.”

.15 For purposes of this revenue procedure, a “United States possession organization” is any organization created or organized in a possession of the United States.

.16 In connection with the redesign of the Form 990, the IRS announced in a press release, IR-2007-204 (December 20, 2007), that for tax years ending on or after December 31, 2010, exempt organizations whose annual gross receipts are normally not more than \$50,000 would not be required to file Form 990.

.17 Section 6033(i), enacted as part of the PPA, provides that any organization relieved from filing an annual return pursuant to § 6033(a)(3)(A)(ii) or § 6033(a)(3)(B) must furnish annually, in electronic form, a notice containing the information described in § 6033(i)(1). The annual notice requirement is satisfied by submitting a Form 990-N e-Postcard. See Treas. Reg. § 1.6033-6.

.18 From time to time, the Commissioner may relieve additional organizations from filing annual returns on Form 990 by publishing an announcement in the Internal Revenue Bulletin, revising the instructions accompanying Form 990,

amending the regulations, or issuing other appropriate publications.

SECTION 3. INCREASE IN THE FILING THRESHOLD TO \$50,000

.01 An organization exempt from federal income tax under § 501(a) because it is described in § 501(c) (other than a private foundation or a § 509(a)(3) supporting organization) that normally has annual gross receipts (as defined by Treas. Reg. § 1.6033-2(g)(4)) of not more than \$50,000 (as described in section 4 of this revenue procedure) is not required to file an annual return under §6033(a).

.02 A foreign organization or a United States possession organization exempt from federal income tax under § 501(a) because it is described in § 501(c) (other than a private foundation or a § 509(a)(3) supporting organization) is not required to file an annual return under § 6033(a) if–

(1) it normally does not receive more than \$50,000 (as described in section 4 of this revenue procedure) in annual gross receipts (as defined by Treas. Reg. § 1.6033-2(g)(4)) from sources within the United States; and

(2) it has no significant activity (including lobbying and political activity and the operation of a trade or business, but excluding investment activity) in the United States.

.03 An organization that is not required to file an annual return by virtue of section 3.01 or 3.02 of this revenue procedure must submit a Form 990-N e-Postcard annually in electronic format as described in §6033(i)(1). By submitting an e-Postcard, an organization acknowledges that it is not required to file a return under § 6033(a) because its annual gross receipts are normally not more than

\$50,000. Treas. Reg. § 1.6033-6(c)(3).

.04 If at any time an organization ceases to meet any condition set forth in section 3.01 or 3.02 of this revenue procedure, the organization is required to file an annual return on Form 990 for the year in which it first ceased to qualify for relief under this procedure and for all subsequent years in which the organization does not qualify.

SECTION 4. NORMALLY NOT MORE THAN \$50,000

For purposes of section 3 of this revenue procedure, the annual gross receipts of an organization are normally not more than \$50,000 if--

(1) in the case of an organization that has been in existence for one year or less, the organization's gross receipts, including amounts pledged by donors, are \$75,000 or less during its first taxable year;

(2) in the case of an organization that has been in existence for more than one year, but less than three years, the organization's average annual gross receipts for its first two taxable years is \$60,000 or less; and,

(3) in the case of an organization that has been in existence for three years or more, the organization's average annual gross receipts for the immediately preceding three taxable years, including the taxable year for which the return is filed, is \$50,000 or less.

SECTION 5. OTHER FILING OBLIGATIONS

This revenue procedure does not affect an organization's obligation under the internal revenue laws to file any tax or information return other than Form 990.

For example, if an organization earns sufficient gross unrelated business income

to require the filing of Form 990-T, Exempt Organizations Business Income Tax Return, it must do so, whether or not it is required to file Form 990. See Treas. Reg. § 1.6033-2(g)(2).

SECTION 6. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 83-23, 1983-1 C.B. 687, Rev. Proc. 94-17, 1994-1 C.B. 457, and Rev. Proc. 2003-21, 2003-1 C.B. 448, are hereby modified and superseded by this revenue procedure.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective immediately upon publication in the Internal Revenue Bulletin and is applicable to annual returns filed for tax years beginning on or after January 1, 2010.

SECTION 8. REQUEST FOR COMMENTS

Comments are requested on whether guidance is needed regarding the filing of annual returns on Form 990 by § 509(a)(3) supporting organizations. See Rev. Proc. 95-48, 1995-2 C.B. 418, and Rev. Proc. 96-10, 1996-1 C.B. 577.

Comments should refer to Rev. Proc. 2010–xx and be submitted to:

Internal Revenue Service

CC:PA:LPD:PR (Rev. Proc. 2011-15)

Room 5203

P.O. Box 7604

Ben Franklin Station

Washington, DC 20044

Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to:

Courier's Desk

Internal Revenue Service

1111 Constitution Ave., N.W.

Washington, DC 20224

Attn: CC:PA:LPD:PR

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Alternatively, taxpayers may submit comments electronically to *notice.comments@irscounsel.treas.gov*. Please include "Rev. Proc. 2011-15" in the subject line of any electronic communications.

All comments will be available for public inspection and copying.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Elizabeth Goff of the Exempt Organizations, Tax Exempt and Government Entities Division. For further information about this revenue procedure, please contact Ms. Goff at (202) 283-8977 (not a toll-free call) or the Exempt Organizations and Employee Plans Customer Assistance Center at 877-829-5500.